CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	✓ Force	☐ Discourt.	☐ U.S.
Hena Zaman		Team # 2	200614366	☑ Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Thursday, 09/21/2006 5:30 PM		East 49th Street and Lexington Avenue		18	3/21/2008	3/21/2008
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/Time	Received at CCF	RB
Fri, 10/27/2006 11:26 AM		CCRB	In-person	Fri, 10/27/	2006 2:26 PM	
Complainant/Victim	Type	Home Address				
Subject Officer(s)	Shield	TaxID	Command			
1. POM Robert Konner	10398	938787	047 PCT			
2. SGT Mervin Bennett	00255	920019	045 PCT			
3. POM Benjamin Zonis	14106	936022	045 PCT			
Witness Officer(s)	Shield N	Tax No	Cmd Name			
1. POM Luis Clark	24173	937239	045 PCT			
Officer(s)	Allegatio	on		Inve	estigator Recon	nmendation
A.SGT Mervin Bennett	Force: Sergeant Mervin Bennett used physical force against \$87(2)(b)					
B.POM Robert Konner	Force: Police Officer Robert Konner tightly handcuffed \$37(2)(b)					
C.POM Benjamin Zonis	Abuse: Police Officer Benjamin Zonis refused to provide his					

Synopsis

On September, 21, 2006, at approximately 5:30PM, \$37(2)(b) was parked in front of the Marriot Hotel located at East 49th Street and Lexington Avenue, waiting to pick up a passenger. PO Robert Konner instructed \$37(2)(b) then did. \$37(2)(b) came back to the same location and parked his car again at which time PO Konner told him to move. \$37(2)(b) drove away and came back to the exact location at which time PO Konner told him, "You don't want me to get the FBI and Secret Service after you. I can get you arrested." \$37(2)(b) left the location and complained about PO Konner's behavior to an officer who was standing on East 49th Street. \$37(2)(b) then drove around and situated his vehicle back at the original location where PO Konner was. At this time called 911 and was being transferred to IAB. PO Konner removed \$37(2)(b) out of the vehicle at which point Sgt. Bennett approached the situation. Sgt. Bennett pulled \$37(2)(b) see ear piece out of his ear (allegation A), which caused \$37(2)(b) see are to be "damaged and hurt." \$37(2)(b) alleged that PO Konner retightened his handcuffs (allegation B). \$37(2)(b) was subsequently arrested and was transported to the 13th Precinct with PO Zonis and PO Konner. Upon his release, \$37(2)(b) asked both officers for their name and shield number however they refused to provide it to him (allegations C). \$37(2)(b) was released with a summons and subsequently sought treatment for his injuries at his private doctor.
§ 87(2)(b), § 87(2)(g)
Summary of Complaint
a limousine chauffeur who is employed by \$87(2)(b) , was interviewed as a walk-in complainant at the CCRB on October 27, 2006 (enc.7a-e). \$87(2)(b)
proceeded to drive around the block and when he parked at the location a third time, PO Konner knocked on his window and motioned \$87(2)(b) to lower his window. \$87(2)(b) complied and PO Konner, in a "barbaric and scary manner", placed his hands on \$87(2)(b) s door, leaned in and told \$87(2)(b) "You don't want me to get the FBI and Secret Service after you. I can get you arrested." \$87(2)(b) drove away and when he approached the northeast corner of 49th Street, he saw PO2. PO2 replied that he did not care about the situation and instructed \$97(2)(b) to "keep going." During this time, PO Konner was able to see \$87(2)(b) speaking to PO2. \$87(2)(b) parked his car in front of the hotel again and called 911 to report that he was being assaulted by a police officer. \$87(2)(b) was placed on hold and was being transferred to IAB. PO Konner then approached \$87(2)(b) and asked him why he stopped to speak to PO2. \$87(2)(b) rolled his window down approximately two inches and explained that he told PO2 about his [PO Konner's] behavior. PO Konner then pushed the window down manually, opened the door and pulled \$87(2)(b) out of the car. PO Konner then informed \$87(2)(b) that he was being placed under arrest. At this time, PO3 (identified as Sgt. Mervin Bennett during the CCRB investigation) arrived and "harshly" pulled \$87(2)(b) s earnies out of his left ear and also grabbed the cell phone out of his hand, which he then placed in \$87(2)(b) s car. \$87(2)(b) added that his ear was "damaged and hurt." \$87(2)(b) told Sgt. Bennett that he was on the phone with IAB and asked PO Konner why he was being arrested. PO Konner then handcuffed \$87(2)(b) and escorted him

down the block. §87(2)(b) did not resist the arrest. PO Konner searched him and also retrieved his ID (which was later returned to him).
PO Konner then spoke to three FBI agents and a Secret Service officer \$87(2)(6) identified them by looking at the pins that were clasped on the lapel of their jackets). PO Konner gave \$87(2)(6) s ID to the agents but \$87(2)(6) was unable to hear the conversation. Sgt. Bennett told \$87(2)(6) that he could either be taken to the precinct or released with a summons. \$87(2)(6) inquired about his charges and also expressed that he was going to file a complaint. At this time, Sgt. Bennett said that \$87(2)(6) was going to be transported to the stationhouse and was going to be booked. PO Konner then tightened \$100 km shandcuffs. \$87(2)(6) was instructed to seat himself inside the RMP. \$87(2)(6) explained to PO Konner that the handcuffs were very tight but he failed to loosen them. \$87(2)(6) placed himself into the RMP, which was being operated by PO Konner's partner, PO4 (identified as PO Zonis during the CCRB investigation), and waited for PO Konner to finish speaking with the FBI agents. PO Zonis sympathetically asked \$87(2)(6) what happened and \$87(2)(6) explained that he got arrested for no reason. PO Zonis began to laugh and when \$87(2)(6) asked him for his name, he did not provide it.
PO Konner arrived and \$87(2)(b) was then transported to the stationhouse. While in transit, PO Konner told \$87(2)(b) that he instructed the FBI to conduct a thorough check on him because \$87(2)(b) made "terrorist statements", which \$87(2)(b) denied. \$87(2)(b) was transported to the 13th Precinct and was told that an officer would transport his vehicle to the stationhouse. \$87(2)(b) was brought before the desk officer, PO Loughlin (name obtained from badge). Approximately thirty minutes later, PO Konner issued \$87(2)(b) a summons for disorderly conduct and was told to go to court for the summons. PO Clarke (name obtained from badge and verbally provided by PO Clarke) told \$87(2)(b) that he parked his car around the corner. \$87(2)(b) did not notice PO Clarke being present at the arrest location. As \$87(2)(b) exited the stationhouse, he asked PO Konner and PO Zonis for their names and shield numbers, however PO Zonis told \$87(2)(b) that he better leave the precinct immediately, which he did.
noticed that approximately \$40.00 to \$50.00, which was enclosed in a small purse located in the console of his car, was missing (referred to IAB). \$87(2)(b) did not witness any officer search his car. \$87(2)(b) left the stationhouse and was contacted by IAB later that night and provided a telephonic statement. IAB told him that Sgt. Bennett was from the 13 th Precinct. \$87(2)(b) stated that his demeanor was calm and he did not raise his voice during the incident. Upon his release, \$87(2)(b) went back to the arrest location to get his belongings and spoke with Sgt. Bennett. Sgt. Bennett apologized on PO Konner's behalf and stated that he was a rookie and is not from the area and made a mistake. Sgt. Bennett said that PO Konner was at lunch and when he returned, he would release his belongs. PO Konner returned to the area after approximately one hour and gave \$87(2)(b) his belongings.
On \$87(2)(b) went to see his private physician \$87(2)(b) , because his disc hernia was aggravated when he seated himself inside the RMP. \$87(2)(b) stated that because of the handcuffs, his shoulders and wrists were in pain as well. The doctor gave him some pills and recommended that he should not work as much because he needs to relax.
Results of Investigation
PO Robert Konner (enc.10a-b) PO Konner was interviewed at the CCRB on December 4, 2006. PO Konner worked in uniform from 1:40PM to 1:55AM and was assigned to a UN Detail foot post. The following is PO Konner's memo book entry which he read into the record as, "1830: 1 under at 49 th and Lexington Avenue for a male named who was blocking pedestrian traffic not obeying a lawful order to move at a sensitive area at the UN detail. 1839: Sgt. Bennett from 45 appear to transport to 13 PCT. 1930: Respondent released

PO Konner stated that he was assigned to a detail on the southwest corner of East 49th Street and Lexington Avenue. Secret Service as well as the NYC Joint Terrorism Task Force instructed officers that when a dignitary is entering or exiting the Marriot Hotel, the officers are to ensure that no cars stand in front of the establishment for security purposes. When a sensitive target is not in the area, the cars are allowed to park

from 13 PCT, given summons #\$ 87(2)(b)

alongside the curb, in front of the hotel. \$87(2)(b) a \$87(2)(b) cab driver, parked at the corner of East 49th Street, at or around the time PO Konner received notification that an official was about to exit the notel. Because of this, PO Konner instructed \$87(2)(b) to move. \$87(2)(b) gave PO Konner a "hard time" and starting screaming at him that he was waiting for a client. \$87(2)(b) eventually moved but returned to the same corner within a few minutes. PO Konner explained to \$87(2)(b) that an important official was coming out of the hotel and he needed for him to move. \$87(2)(b) replied that he did not want to be treated like a terrorist and continued to yell and scream. \$87(2)(b) proceeded to drive and the street to move, he said that he would. PO Konner turned away from \$87(2)(b) and began to walk away. As PO Konner turned around, he saw that \$87(2)(b) was standing in the same location. PO Konner walked up to him and said that if \$87(2)(b) did not move, he would have to place him under the target [for obstruction of pedestrian traffic]. \$87(2)(b) responded, "Do what you gotta do."
At this time PO Konner asked \$87(2)(b) was physically removed from the car. \$87(2)(b) expressed that he wanted to speak to a supervisor. PO Konner contacted his detail supervisor, Sgt. Bennett, who was from the 45 th Precinct. No other officers were at the location. PO Konner explained that to avoid creating a scene in a highly sensitive area, he told \$87(2)(b) that the summons would have to be issued at the stationhouse. Sgt. Bennett also agreed with this. At this time, PO Konner handcuffed \$37(2)(b) and escorted him to the side. \$87(2)(b) expressed that the handcuffs were too tight so PO Konner loosened them up a little bit. PO Konner established that \$87(2)(b) did not struggle or resist the arrest. At this point, the NYPD Join Terrorism Task Force and Secret Service came along and "checked" \$37(2)(b) s name to see if it matched those on the "wanted terrorism list." PO Konner was unable to elaborate on how they "checked" \$17(2)(b) s information but recalled that at some point they came over to obtain \$17(2)(b) s name to see if it from him. PO Konner never asked \$17(2)(b) s vehicle to the stationhouse.
Sgt. Bennett called over a unit in order to transport \$\frac{87(2)(6)}{2}\$ was placed in the vehicle. PO Konner did not hear PO2 have an interaction with \$\frac{87(2)(6)}{2}\$ and \$\frac{87(2)(6)}{2}\$ to the 13 th Precinct where he received a summons for disorderly conduct (subsection 5). PO Konner denied that \$\frac{87(2)(6)}{2}\$ made terrorist statements during the course of his arrest, and did not calm down during the whole process. \$\frac{87(2)(6)}{2}\$ did not complain of any injuries and did PO Konner observe any injuries. PO Konner could not recall if \$\frac{87(2)(6)}{2}\$ was wearing a early piece and could not remember if he made any phone calls. PO Konner did not see an officer take his phone or his earpiece. PO Konner denied that \$\frac{87(2)(6)}{2}\$ s handcuffs were tightened. PO Konner did not hear \$\frac{87(2)(6)}{2}\$ ask any officer for the name/shield number. PO Konner recalled that at the stationhouse, \$\frac{87(2)(6)}{2}\$ asked him for his information. PO Konner recalls explaining to him that his tax number, command and name were on the summons. When asked if PO Konner verbally provided his information to \$\frac{87(2)(6)}{2}\$ ask any officer for his name/shield number at the incident location or at the stationhouse. PO Konner stated that obbysical force was not used against \$\frac{87(2)(6)}{2}\$ and added that other than handcuffing \$\frac{87(2)(6)}{2}\$ PO Konner never had physical contact with him.

Sgt. Mervin Bennett (enc.12a-b)

Sgt. Bennett was interviewed at the CCRB on February 27, 2007. On September 21, 2006, he worked on foot from 4:00PM to 12:00AM and was the detail sergeant for the UN Assembly. Sgt. Bennett was dressed in uniform and was supervising approximately 8-10 officers who were from numerous commands. Sgt. Bennett recalled that PO Zonis and PO Clark, both from the 45th Precinct, were assigned to the detail. Sgt. Bennett did not have any memo book entries pertaining to this incident.

Sgt. Bennett provided his cell phone number to the officers assigned to the detail because he wanted direct contact with the officers since they were patrolling a sensitive location. PO1 from the 47th Precinct (could not affirm if it was PO Konner) called Sgt. Bennett and advised him that he might have an arrest for disorderly conduct. Upon arriving at the location, PO1 was the only officer present. PO1 told Sgt. Bennett that \$87(2)(6) was not complying with his orders that he couldn't park there. \$87(2)(6) insisted that

he was allowed to stay there since he was waiting to pick someone up. Sgt. Bennett did not see an markings on the vehicle indicating that \$87(2)(b) was a chauffeur. Numerous law enforcement agencies were at the location. Sgt. Bennett did not want to cause a scene at the location so he had \$87(2)(b) removed. Sgt. Bennett approached \$37(2)(b) s vehicle, which was parked in a no standing/parking zone. Sgt. Bennett explained to \$37(2)(b) that he was not allowed to be at the location to which responded that he was waiting for someone. \$37(2)(b) was very irrational and argumentative and insisted that he was allowed to be at the location. After a verbal dispute, Sgt. Bennett instructed PO1 to place \$37(2)(b) under arrest. \$37(2)(b) stepped out of the vehicle on his own. PO1 handcuffed \$37(2)(b) resisted the arrest. \$37(2)(b) was escorted to the corner of the street by secret service and a plainclothes unit to be interviewed. His credentials were reviewed. Sgt. Bennett informed \$37(2)(b) that he was going to be given a summons and was not going to be booked. \$37(2)(b) finally calmed down at which point an RMP came to the location to transpose him to the stationhouse.
Sgt. Bennett instructed an officer to park \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ s car in a standing zone until it was determine which precinct he was being transported to. \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ was originally transported to the 13 th Precinct because their computers were down, \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ was then transported to the 17 th Precinct. PO Zonis an PO Clark transported \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ was issued a summons for disorderly conduct at the 17 th Precinct. Upon his release some back to the arrest location after an hour and a half and apologized to Sgt. Bennett. Sg Bennett did not profile \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ as a terrorist however Sgt. Bennett could not speak for the other agencies at the location. Sgt. Bennett did not observe \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ with a phone or an earpiece and denied that an officer pulled the earpiece out of his ear. Sgt. Bennett stated that no physical force was used against \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ except the necessary amount when he was placed in handcuffs. \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ did not express that he handcuffs were too tight nor did Sgt. Bennett observe any visible injuries. \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ s handcuffs. Sg Bennett stated that he did not hear \$\frac{\\$37(2)(b)}{\\$37(2)(b)}\$ ask any officer to identify himself. All of the officers were in uniform and their names were visible.
PO Benjamin Zonis (enc.14a-b) PO Zonis was interviewed at the CCRB on March 5, 2007. On September 21, 2006, PO Zonis worked is uniform form 1:40PM to 10:15PM and was assigned to a traffic detail for the UN General Assembly a E50th Street and Park Avenue. PO Zonis worked with PO Clark and was operating RMP# \$87(2) PO Zonis did not have any memo book entries pertaining to this incident.
On September 21, 2006, PO Zonis received a phone call on his cell phone from Sgt. Bennett instruction him to report to Lexington Avenue, which was a highly sensitive location during the week of the incider because of the UN Assembly. Sgt. Bennett did not provide any details as to why PO Zonis was called to the location. Upon arriving at the scene within a few minutes, PO Zonis observed Sgt. Bennett and another officer (could not affirm if it was PO Konner) standing next to \$87(2)(b) PO Zonis could not recall was handcuffed at this time. PO Zonis did not hear any officer threaten to arrest \$87(2)(b) PO Zonis did not recall if any other law enforcement officials were involved in the incident. Sgt. Bennet approached PO Zonis' car and instructed them to transport \$87(2)(b) to the 17 th Precinct. Sgt. Bennet still did not provide any further details regarding the arrest at this time. PO Zonis could not recall if struggle took place when \$87(2)(b) was arrested and could not recall who placed him in the RMP.
PO Clark, PO Zonis and the arresting officer transported \$87(2)(b) to the 17 th Precinct however since the precinct was not accepting any prisoners, the officers then transported \$87(2)(b) to the 13 th Precinct During the transport \$87(2)(b) stated that he could not understand why he was being arrested. PO Zonis recalled that \$87(2)(b) interacted with PO Clark in the RMP however he was unable to remember the interaction. \$87(2)(b) did not ask any of the officers to identify themselves. PO Zonis did not observe physical force being used against \$87(2)(b) PO Zonis did not observe any injuries on \$87(2)(b) not did \$87(2)(b) complain of any injuries. PO Zonis recalled that another officer transported symmons after he was transported to the 13 th Precinct. \$87(2)(b) was released with summons after he was transported to the 13 th Precinct. \$87(2)(b) talking of talking of talking of the 13 th Precinct PO Zonis did not observe \$87(2)(b) talking of talking o

his phone. \$87(2)(b) never complained that handcuffs were too tight and PO Zonis denied that an officer tightened \$87(2)(b) s cuffs. PO Zonis resumed patrol and did not encounter \$87(2)(b) again.
Officers not Interviewed
never mentioned that a third officer was present during the time he was being transported to the stationhouse. The officers stated that PO Clark was with PO Zonis during the transport. PO Clark was scheduled to appear at the CCRB on March 9, 2007 but did not appear because he is on line of duty injury. PO Clark was involved in a car accident and as of March 19, 2007, the sick desk was unable to provide a date for when he would return to work. Regardless, PO Clark's statement would not affect the outcome of allegation C and therefore no further attempts were made to schedule him.
Police Documents
The 13 th Precinct command log entry indicated that \$87(2)(b) was brought into the stationhouse at 7:00PM on September 21, 2006. \$87(2)(b) s physical condition was noted as "apparently normal." was released with summons# \$87(2)(b) at 7:30PM (enc.16a). The 47 th Precinct roll call indicated that PO Konner was assigned to the Waldorf Astoria detail during tour 3 (enc.18f). The 45 th Precinct roll call indicated that Sgt. Bennett, PO Clark and PO Zonis were assigned to the 50 th Street and Park Avenue detail (enc.19e-f).
Communications records indicated that \$\frac{87(2)(b)}{2}\$ called 911 and reported that an officer by the name of Konner was "harassing" him. During this time, \$\frac{87(2)(b)}{2}\$ was on hold, being transferred to IAB. An officer, identified as Sgt. Bennett, arrived at the scene and told \$\frac{87(2)(b)}{2}\$ that he was being placed under arrest. Both Sgt. Bennett and \$\frac{87(2)(b)}{2}\$ are engaged in a verbal dispute with each other at which point Sgt. Bennett instructed an officer to transport \$\frac{87(2)(b)}{2}\$ s vehicle to another location. PO Pensa, from IAB, is connected to the call and is waiting for someone to receive the call. PO Pensa never interacted with anyone and the call was eventually disengaged (enc.6a-b).
Madical Decomposts
Medical Documents Medical records from \$87(2)(b) office revealed that on \$87(2)(b) , \$87(2)(b) went to the doctor and complained of a skin irritation. Or \$87(2)(b) , \$87(2)(b) went to see his doctor for a follow up appointment and was diagnosed with \$87(2)(b) was treated for high blood pressure. \$87(2)(b) office was contacted on December 11, 2006 and a medical assistant by the name of \$87(2)(b) that there were no additional visits on file for \$87(2)(b) (enc.15a-c).
CCRB Histories
Officers PO Zonis, in his second year on the force, does not have any additional allegations in his CCRB history (enc.2a).
PO Konner, in his first year on the force, has an open CCRB complaint. In case# 200612780, allegations of physical force and threat of arrest were made (enc.3a).
Sgt. Bennett, in his 9 th year on the force, does not have any substantiated allegations in his CCRB history (enc.1a).
Civilians 887(2)(b) has not filed any other CCRB complaints (enc.4a).
Summons Disposition and Criminal Conviction History A search in BADS utilizing the last name \$87(2)(b) with a start date of January 1, 2001, produced negative results (enc.20a). \$87(2)(b).\$87(2)(a) 160.50
No additional
information is available for the summons.

Conclusions and Recommendations

It is not in dispute that \$87(2)(b) refused to comply with PO Konner's instructions and was subsequently arrested. It is not in dispute that Sgt. Bennett responded to the location to verify the arrest. PO Zonis transported \$87(2)(b) to the 13 th Precinct where \$87(2)(b) was subsequently released with a summons for disorderly conduct.
§ 87(2)(b), § 87(2)(g)
Allegations Not Pleaded
PO Konner instructed \$87(2)(b) not to park his vehicle in front of the Marriott Hotel numerous times repeatedly drove around the block and continued to park his vehicle despite PO Konner's
instructions. PO Konner admitted that he informed §87(2)(b) that he could have been arrested. Due to
the fact that §87(2)(b) was subject to arrest at the point when the statement was made and because he
was subsequently arrested, the threat of arrest allegation has not been pleaded. \$87(2)(b) stated that he
asked PO Konner for his name and shield number upon his release from the 13 th Precinct. Due to the facthat §87(2)(b) provided PO Konner's name to the 911 operator prior to his arrest, this allegation has no
been pleaded against PO Konner since \$87(2)(b) clearly had the information already.
Allegation A: Sergeant Mervin Bennett used physical force against \$87(2)(b) Allegation B: Police Officer Robert Konner tightly handcuffed \$87(2)(b)
alleged that Sgt. Bennett pulled out his earpiece with such force that he sustained injuries to
his ear. §87(2)(b) also stated that he sustained injuries as a result of the handcuffs being tightened. §
stated that he sought treatment for both his injuries on \$87(2)(b)
§ 87(2)(b) s § 87(2)(g) The medical records revealed
that on § 87(2)(b) went to the doctor and complained of a skin irritation. Or
went to see his doctor for follow up appointment and was diagnosed
with \$87(2)(b) (an unpleasant sensation that provokes a desire to scratch). On \$87(2)(b) was treated for high blood pressure. \$87(2)(b). \$87(2)(g)
was treated for high blood pressure. \$ \$ \(\frac{1}{2} \rangle 0 \), \$ \(\frac{1}{2} \rangle 0 \), \$ \(\frac{1}{2} \rangle 0 \), \$ \(\frac{1}{2} \rangle 0 \).
Allegation C: Police Officer Benjamin Zonis refused to provide his/her name and/or shield number
to § 87(2)(b)
stated that he asked PO Zonis refused to provide his name when he was situated in the RMP
and upon his release from the 13 th Precinct. PO Zonis denied the above allegation. § 87(2)(b). § 87(2)(g)

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: